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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/606,721	06/29/2000	Gordon C. Cheng	CC8128-DRIB	7493

7590 02/18/2003  
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EXAMINER

WEBB, JAMISUE A

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 02/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b>	Application No. 09/606,721	Applicant(s) CHENG ET AL.	
	Examiner Jamisue A. Webb	Art Unit 3761	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 04 February 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. **ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).**

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: 22.

Claim(s) rejected: 1, 2, 4-8, 10, 11, 19, 22, 26, 35-38, 43, 45-49, 56, 79-85, 91-94 and 97.

Claim(s) withdrawn from consideration: 3, 9, 12-18, 20, 21, 23-25, 27-34, 39-42, 44, 50-55, 57-78, 86-90, 95 and 96.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

  
**WEILIN LO**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3700**

Continuation of 2. NOTE: The amendment to the claims has added many new limitations which have never been considered previously in the claims. For example, independent claim 1 has added that the urine being stored "in an immobilized form" and the urine being wicked "through a continuous wicking pathway", these have never been considered before therefore would require further search and consideration. With respect to Claim 22, the examiner had previously indicated that this claim would be allowable if rewritten in independent form and including all of the limitations of the base claim and any intervening claims. The claim now however was amended to add limitations for Claim 2, which was not an intervening claim, and therefore was not considered with this combination before, and require further consideration.

Continuation of 5. does NOT place the application in condition for allowance because: Applicant has argued that the prior art does not disclose a system for use in a male. This is an intended use of the product and as long as the claimed structural limitations are present in the prior art, then the prior art reference is perfectly capable of being used for a male. With respect to Applicant's arguments that Holland does not disclose a means for wicking that is capable of wicking counter gravitationally: the Holland reference discloses the wicking material to be an absorbent material, an absorbent material if placed on top of a liquid will wick fluid into its structure counter-gravitationally. Therefore the means for wicking of Holland is fully capable of wicking fluids counter-gravitationally. The applicant is arguing that Holland does not disclose the urine being stored in an "immobilized form", this limitation is a new limitation that is not be entered into the case, therefore the arguments with respect to this limitation are not persuasive. With respect to Applicant's arguments that Holland does not disclose wicking continuity: Holland discloses the wicking member extending from the collection means into the storage means, therefore having wicking continuity. The applicant is arguing the combination of Anderson and Holland is not proper because they do not disclose a "means for wicking said urine through a continuous wicking pathway away from the penis wherein said means for wicking moves counter-gravitationally and gravitationally....." As stated above, the examiner considers Holland to disclose this, therefore arguments are not persuasive and rejections stand.